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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,787	03/03/2000	Kurt Clement	108298627US	7353

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EXAMINER	
REAGAN, JAMES A	
ART UNIT	PAPER NUMBER

3621

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/518,787	CLEMENT, KURT	
<b>Examiner</b>	<b>Art Unit</b>		
James A. Reagan	3621		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.<br>. | 6) <input type="checkbox"/> Other:   |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in response to the amendment filed on 08 January 2003.
2. Claims 1, 10, and 21 have been amended.
3. Claims 1-29 have been examined.

### **RESPONSE TO ARGUMENTS**

4. Applicant's arguments received on 08 January 2003 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.
5. With regard to the limitations of claims 1, 10, and 21, Applicant argues the combination of Wyman and Applicant's own admission do not teach or suggest recording an authorization in a computer system upon which subsequent access to data or a software application can be based. Examiner disagrees and points to the abstract of Wyman wherein Wyman discloses, "Each licensed product

upon start-up makes a call to a license server to check on whether usage is permitted, and the license server checks a database of the licenses, called product use authorizations, that it administers."

### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman (US 5,438,508) in view of Applicant's own admission.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the *entire* reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

#### **Claims 1, 10, and 21:**

With regard to the limitations of:

Art Unit: 3621

- *controlling access to the data through computer executable code that requires authorization for continued access to the data by automatically:*
- *detecting access to the data by the user, and*
- *querying the user's account, and if permission to continued access is verified, then enabling continued access to the data.*

Wyman, in column 1, lines 36-38 discloses, "...usage of licensed software may be monitored in a computer system to determine if a use is within the scope of a license" , and product use authorizations (abstract).

Wyman does not specifically disclose:

- *recording data on a fixed medium in the computer system; and*
- *providing for transfer of the computer system to the user.*

However, Examiner takes **Official Notice** that it is old and well known in the computer arts to sell computers with software already installed on the machine's hard disk. The Windows operating system, various third-party applications, and online services such as America Online, Prodigy, and MSN are all preinstalled on a computer when it comes from the factory to the new owner. In addition, Wyman discloses, "Each licensed product upon start-up makes a call to a license server to check on whether usage is permitted, and the license server checks a database of the licenses, called product use authorizations, that it administers," inherently disclosing recordation of access privileges.

With regard to the newly added limitations of granting access to data after contacting the a party, recording the authorization, and granting a second access

to the data based on the recorded authorization, Wyman discloses a database interface and a log function, and a management interface which directs the access of the user (column 11, lines 36-58). It would be obvious to one of ordinary skill in the art at the time of the invention to grant repeated access to the data if the user is authorized. Wyman also discloses different types of licenses, which inherently disclose repeated access to the data (column 20, lines 13-53). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide multiple and repeated access to data because this provides an efficient and cost-effective means for distributing applications and data to individual and group users.

**Claim 2:**

With regard to the limitation of *the act of recording data on the fixed medium includes recording software application program instructions on the fixed medium*, Examiner takes **Official Notice** that it is old and well known in the computer arts to install on the hard drive self-executing programs that automatically install an application when activated. AOL routinely places a shortcut onto the desktop of a new computer wherein a new user can click on the shortcut and the application will install the browser software and automatically connect to the Internet to begin setting up an account.

**Claims 3, 11, and 22:**

With regard to the limitation of *recording software application program instructions on the fixed medium includes recording software application program*

*instructions that enable a software application that does not depend on continued access to a network for fully functional operation, Wyman, in column 2, lines 42-44 discloses a spreadsheet program.*

**Claims 4-9 and 12:**

With regard to the limitations of:

- *the act of recording data on the fixed medium includes recording data on a hard disk drive.*
- *the act of controlling access to the data includes the computer system automatically executing computer readable instructions to contact a party authorized to grant access to the data.*
- *executing computer readable instructions includes executing instructions to activate a network link.*
- *executing computer readable instructions includes executing instructions to activate access to the Internet.*
- *the act of controlling access to the data includes determining if a user has a sufficient account credit to continue access to the data.*
- *the act of controlling access to the data includes determining if a user should be billed for accessing the data.*

Examiner takes **Official Notice** that it is old and well known in the computer arts to install a self-extracting, self-executing program onto the hard drive of a computer, automatically dial up an ISP after installation, access the Internet, verify available credits (free hours) according to a sponsored program,

and set up a billing account with a user's credit card. Applicant has referenced AOL in the section of the specification marked "Background of the Invention", and, as one of ordinary skill in the art would agree, AOL anticipates these steps when providing Internet access to a new customer for the first time.

**Claims 13 and 23:**

With regard to the limitation of *verifying authority to access the software application verifies authority of a particular user to access the software application*, Wyman, in column 1, lines 36-38 discloses, "...usage of licensed software may be monitored in a computer system to determine if a use is within the scope of a license."

**Claims 14 and 24:**

With regard to the limitation of *verifying authority to access the software application verifies authority of an accessing computer system to access the software application*, Wyman discloses distributing software licenses among the units of an organization (column 2, lines 22-40).

**Claims 15-20 and 25-29:**

With regard to the limitations of:

- *verifying authority to access the software application is accomplished through a network connection.*
- *verifying authority to access the software application is accomplished through an Internet interface.*

- *if authority is not verified, then interrupting access to the software application.*
- *if authority to access the software application is not verified, then the user is presented with an opportunity to qualify for access to the software application.*
- *the opportunity to qualify for access to the software application includes generating a request to set up an account.*
- *if authority to access the software application is not verified, then the user's access to the software application is terminated.*

Examiner takes **Official Notice** that it is old and well known in the computer arts to check a password or authorization code across an Internet connection using a web browser, denying access if the code is incorrect, applying for an account, and terminating the session if an account is not requested or granted. Applicant has referenced AOL in the section of the specification marked "Background of the Invention", and, as one of ordinary skill in the art would agree, AOL anticipates these steps when providing Internet access to a new customer for the first time.

### Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammell** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

**Washington, D.C. 20231**

or faxed to:

**(703) 305-7687** [Official communications; including

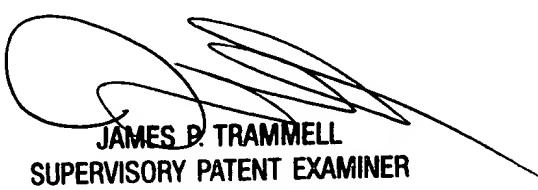
After Final communications labeled "Box AF"]

**(703) 308-1396** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

JAR

23 March 2003

  
**JAMES P. TRAMMELL**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**